THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.10615 and 10693 of 1997

17.8.2006

Between:

T.Pandu Reddy, S/o.Pedda Penchal Reddy
And others

… Petitioners

AND

The District Collector, Chittoor
And another

… Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.10615 and 10693 of 1997

ORDER:

This common order shall dispose of both the writ petitions as the background of the cases is similar.

It is the case of the petitioners that they were in possession and enjoyment of various extents of agricultural land in survey No.167 of Musalipedu Village of Yerpedu Mandal in Chittoor District, which is classified and described in the revenue records as tank poramboke. They were allegedly Sivai Jamaidas cultivating the lands for over forty (40) years. In respect of the same land, which did not get submerge in Full Tank Level (FTL), they allegedly made a representation to the second respondent for assignment of the land, in vain. Therefore, they filed the instant writ petitions seeking a direction to the respondents to assign the land in survey No.167 of Musalipedu Village in their favour.

In both the writ petitions, the MRO filed counter affidavit. Briefly stated, the contents of the counter affidavit are as follows. The MRO granted Eksal lease in favour of the petitioners vide proceedings in D.Dis.No.172/90, dated 24.3.1990 under Board Standing Orders (BSO) 15(4). Subsequently, on a complaint given by one Bathi Reddy of Saraswathi Kandrika that the land in survey No.167 is Musalipedu tank, the District Collector by endorsement dated 08.2.1990 informed that the assignment of pattas in respect of tank poramboke is prohibited by the Government vide their memo dated 19.8.1983.

Therefore, the MRO by proceedings dated 08.2.1990 cancelled Eksal lease. A reference is also made to the complaint made to Hon'ble Lok Ayuktha.

It is further stated that aggrieved by the orders of the MRO, the petitioners preferred an appeal before the Revenue Divisional Officer, Tirupathi, who dismissed the same on 05.3.1991. The petitioners' revision before the Joint Collector was dismissed on 31.3.1993 and further revision to the Commissioner of Land Revenue was also dismissed on 12.12.1994. It is further stated that the land in survey No.167 is classified as tank poramboke and, therefore, the same cannot be assigned.

Though the counter affidavit is filed in 1998, no reply affidavit is filed by denying the allegations. One thing stands out that the land in survey No.167 is tank poramboke land and, therefore, the same cannot be assigned, as per various Government Orders. Indeed as held by the Supreme Court in **Hinch Lal Tiwari v Kamala Devi**[1] and an unreported judgment of this Court in **The Water Users Association, Thimmaya Gari Palle Cheruvu Tank v Government of Andhra Pradesh**[2] the land classified as tank poramboke is prohibited for assignment. If the petitioners are landless and poor persons, the second respondent may consider the representation of the petitioners for assignment of alternative land suitable for cultivation, as and when the petitioners make application for assignment.

The writ petitions, with the above observations, are accordingly dismissed. No costs.

(**V.V.S.RAO, J**)

August 17, 2006.

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[1] AIR 2001 SC 3215 = (2001) 6 SCC 496

[2] W.P.No.20323 of 2000, dated 06.02.2002